



Rep. David Reis

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LRB099 07073 MLM 32531 a

1 AMENDMENT TO HOUSE BILL 3910

2 AMENDMENT NO. _____. Amend House Bill 3910 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Title Insurance Act is amended by changing
5 Sections 14 and 16 as follows:

6 (215 ILCS 155/14) (from Ch. 73, par. 1414)

7 Sec. 14. Fees.

8 (a) Every title insurance company and every independent
9 escrowee subject to this Act shall pay the following fees:

10 (1) for filing the original application for a
11 certificate of authority and receiving the deposit
12 required under this Act, \$500;

13 (2) for the certificate of authority, \$10;

14 (3) for every copy of a paper filed in the Department
15 under this Act, \$1 per folio;

16 (4) for affixing the seal of the Department and

1 certifying a copy, \$2; and

2 (5) for filing the annual statement, \$50.

3 (b) Each title insurance company shall remit pay, for all
4 of its title insurance agents subject to this Act for filing an
5 annual registration of its agents, an amount collected from the
6 consumer equal to \$3 for each policy issued by all of its
7 agents in the immediately preceding calendar year.

8 (Source: P.A. 93-32, eff. 7-1-03; 94-893, eff. 6-20-06.)

9 (215 ILCS 155/16) (from Ch. 73, par. 1416)

10 Sec. 16. Title insurance agents.

11 (a) No person, firm, partnership, association, corporation
12 or other legal entity shall act as or hold itself out to be a
13 title insurance agent unless duly registered by a title
14 insurance company with the Secretary.

15 (b) Each application for registration shall be made on a
16 form specified by the Secretary and prepared ~~in duplicate~~ by
17 each title insurance company which the agent represents. The
18 title insurance company shall retain the copy of the
19 application and forward a copy ~~the original~~ to the Secretary
20 ~~with the appropriate fee.~~

21 (c) Every applicant for registration, except a firm,
22 partnership, association, limited liability company, or
23 corporation, must be 18 years or more of age. Included in every
24 application for registration of a title insurance agent,
25 including a firm, partnership, association, limited liability

1 company, or corporation, shall be an affidavit of the applicant
2 title insurance agent, signed and notarized in front of a
3 notary public, affirming that the applicant and every owner,
4 officer, director, principal, member, or manager of the
5 applicant has never been convicted or pled guilty to any felony
6 or misdemeanor involving a crime of theft or dishonesty or
7 otherwise accurately disclosing any such felony or misdemeanor
8 involving a crime of theft or dishonesty. No person who has had
9 a conviction or pled guilty to any felony or misdemeanor
10 involving theft or dishonesty may be registered by a title
11 insurance company without a written notification to the
12 Secretary disclosing the conviction or plea, and no such person
13 may serve as an owner, officer, director, principal, or manager
14 of any registered title insurance agent without the written
15 permission of the Secretary.

16 (d) Registration shall be made annually by a filing with
17 the Secretary; supplemental registrations for new title
18 insurance agents to be added between annual filings shall be
19 made from time to time in the manner provided by the Secretary;
20 registrations shall remain in effect unless revoked or
21 suspended by the Secretary or voluntarily withdrawn by the
22 registrant or the title insurance company.

23 (e) Funds deposited in connection with any escrows,
24 settlements, or closings shall be deposited in a separate
25 fiduciary trust account or accounts in a bank or other
26 financial institution insured by an agency of the federal

1 government unless the instructions provide otherwise. The
2 funds shall be the property of the person or persons entitled
3 thereto under the provisions of the escrow, settlement, or
4 closing and shall be segregated by escrow, settlement, or
5 closing in the records of the escrow agent. The funds shall not
6 be subject to any debts of the escrowee and shall be used only
7 in accordance with the terms of the individual escrow,
8 settlement, or closing under which the funds were accepted.

9 Interest received on funds deposited with the escrow agent
10 in connection with any escrow, settlement, or closing shall be
11 paid to the depositing party unless the instructions provide
12 otherwise.

13 The escrow agent shall maintain separate records of all
14 receipts and disbursements of escrow, settlement, or closing
15 funds.

16 The escrow agent shall comply with any rules adopted by the
17 Secretary pertaining to escrow, settlement, or closing
18 transactions.

19 (f) A title insurance agent shall not act as an escrow
20 agent in a nonresidential real property transaction where the
21 amount of settlement funds on deposit with the escrow agent is
22 less than \$2,000,000 or in a residential real property
23 transaction unless the title insurance agent, title insurance
24 company, or another authorized title insurance agent has
25 committed for the issuance of title insurance in that
26 transaction and the title insurance agent is authorized to act

1 as an escrow agent on behalf of the title insurance company for
2 which the commitment for title insurance has been issued. The
3 authorization under the preceding sentence shall be given
4 either (1) by an agency contract with the title insurance
5 company which contract, in compliance with the requirements set
6 forth in subsection (g) of this Section, authorizes the title
7 insurance agent to act as an escrow agent on behalf of the
8 title insurance company or (2) by a closing protection letter
9 in compliance with the requirements set forth in Section 16.1
10 of this Act, issued by the title insurance company to the
11 seller, buyer, borrower, and lender. A closing protection
12 letter shall not be issued by a title insurance agent. The
13 provisions of this subsection (f) shall not apply to the
14 authority of a title insurance agent to act as an escrow agent
15 under subsection (g) of Section 17 of this Act.

16 (g) If an agency contract between the title insurance
17 company and the title insurance agent is the source of the
18 authority under subsection (f) of this Section for a title
19 insurance agent to act as escrow agent for a real property
20 transaction, then the agency contract shall provide for no less
21 protection from the title insurance company to all parties to
22 the real property transaction than the title insurance company
23 would have provided to those parties had the title insurance
24 company issued a closing protection letter in conformity with
25 Section 16.1 of this Act.

26 (h) A title insurance company shall be liable for the acts

1 or omissions of its title insurance agent as an escrow agent if
2 the title insurance company has authorized the title insurance
3 agent under subsections (f) and (g) of this Section 16 and only
4 to the extent of the liability undertaken by the title
5 insurance company in the agency agreement or closing protection
6 letter. The liability, if any, of the title insurance agent to
7 the title insurance company for acts and omissions of the title
8 insurance agent as an escrow agent shall not be limited or
9 otherwise modified because the title insurance company has
10 provided closing protection to a party or parties to a real
11 property transaction escrow, settlement, or closing. The
12 escrow agent shall not charge a fee for protection provided by
13 a title insurance company to parties to real property
14 transactions under subsections (f) and (g) of this Section 16
15 and Section 16.1, but shall collect from the parties the fee
16 charged by the title insurance company and shall promptly remit
17 the fee to the title insurance company. The title insurance
18 company may charge the parties a reasonable fee for protection
19 provided pursuant to subsections (f) and (g) of this Section 16
20 and Section 16.1 and shall not pay any portion of the fee to
21 the escrow agent. The payment of any portion of the fee to the
22 escrow agent by the title insurance company, shall be deemed a
23 prohibited inducement or compensation in violation of Section
24 24 of this Act.

25 (i) The Secretary shall adopt and amend such rules as may
26 be required for the proper administration and enforcement of

1 this Section 16 consistent with the federal Real Estate
2 Settlement Procedures Act and Section 24 of this Act.
3 (Source: P.A. 98-398, eff. 1-1-14; 98-832, eff. 1-1-15.)".